THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment Delivered on : 21.04.2007

\+ **WP(C) 15071/2006**

SHRI SIDDHARTH ...Petitioner

- versus -

GURU GOVIND SINGH I.P. UNIVERSITY ...Respondent

Advocates who appeared in this case:
For the Petitioner : Mr M.P. Singh with Mr Rahul Singh and Mr K.K. Singh.
For the Respondent No.1 : Mr G.D. Goel with Mr Sanjiv Goel.

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. This writ petition has been filed on behalf of a person who allegedly suffers from a physical handicap. The petitioner sought admission to the MBBS course offered by Guru Govind Singh University at Vardhman Mahavir Medical College, New Delhi for the academic session 2006 -2007. The contention raised on behalf of the petitioner is that 3% of the seats are to be reserved for physically handicapped candidates. There were 100 seats available at the said institution. Therefore, according to him, three seats should have been made available for physically handicapped

persons. It is submitted on behalf of the petitioner that only one person has been offered the seat as against this quota of 3%. It is further contended that had three seats been offered to physically handicapped persons then the petitioner, being the next in order of merit of physically handicapped persons, would have got admission.

2. On the other hand, it is contended on behalf of the University that the petitioner was ineligible for admission. It was also contended that, in any event, there was only a requirement of 1% reservation in respect of locomotory disability and that too pertaining to the lower limbs. It was contended that, as per the Medical Council of India guidelines issued on 14.7.2003, on which both parties relied, the requirement of a medical certificate is prescribed as under :

> "The committee also decided that besides and in addition to any other medical certificate, the candidate for seeking the benefit of reservation, as stated above, should present him / herself before a medical board comprising of at least one expert / specialist from the specialty of Orthopedics of a Central Government Hospital / Medical Institution in Delhi & Union Territories and from State Medical Boards in the States and obtain a disability certificate from the medical board having been issued with in three months prior to presenting his application for seeking admission in any medical course by claiming the benefit of reservation. In other words, the last valid disability certificate of the candidate from a Medical Board should not be more than three months old from the date of submitting his or her application for seeking admission in the reserved category for disabled candidate."

3. According to the learned counsel for the respondent, the aforesaid guideline prescribes that a person who offers himself / herself as a physically handicapped candidate must be examined by a Board of Experts constituted in Delhi.

Secondly, the medical certificate, on which the candidate relies, must not be more than three months old from the date of submission of the application for seeking admission in the reserved category of disabled candidates.

4. In this context, the learned counsel appearing on behalf of the University drew the attention of the court to the medical certificate which had been filed by the petitioner (annexure-B to the petition). A reading of the said certificate indicates two things. First of all it indicates that it was issued by the Civil Surgeon cum Chief Medical Officer, Patna. Secondly, that the certificate itself refers to another certificate which was issued on 13.04.2005 and that the physical examination of the petitioner was conducted on 28.02.2005. The learned counsel for the respondent also drew my attention to the document at page 58 of the paper book which is the proforma of the certificate which is required to be submitted by a candidate for availing admission against the physically handicapped category. He submitted that the proforma itself indicates that the certificate was required to be issued by the Officer Incharge of the Vocational Rehabilitation Centre for Physically Handicapped, Karkardooma, Vikas Marg, Delhi which means that the certificate that was issued to the petitioner at Patna could not be considered.

5. I have considered the arguments advanced by the counsel for the parties insofar as the question of medical certificate is concerned. It is clear that the physical examination of the petitioner was conducted on 28.02.2005 and the certificate that was

issued to him with regard to his physical disability was also of 13.4.2005 which is much beyond the period of three months which is prescribed by the Medical Council of India Guidelines. The other issue that the medical certificate should be issued by a Board constituted at Delhi itself has to be examined in the context of the proforma given by the university. According to the learned counsel for the petitioner the issuing authority could either be from Delhi or from any other State. According to the learned counsel for the respondent since the proforma specifically provided for a particular authority then it is only a certificate issued by that authority which could be reckoned for the purpose of securing admission under physically handicapped category in Delhi. Without going into the second question, it is quite apparent that the first issue of the medical certificate not being issued within three months of the date of application is sufficient to indicate that the petitioner was not eligible.

6. I also do not deem it necessary to go into the issue of whether a 3% quota ought to have been reserved for physically handicapped person or a 1% quota was sufficient. The argument is that 3% of the seats have to be reserved for physically handicapped persons under the three categories of visual impairment, hearing impairment and locomotory disability and within the group of physically handicapped persons the seats are to be allotted on the basis of 1% each. According to the learned counsel for the respondent, for the purposes of admission to medical courses, visual impairment and hearing impairment are not permitted as that would interfere with the functioning of a medical practitioner as per the Medical Council of India guidelines.

Therefore, only 1% of the seats required to be reserved for physically handicapped candidates who had locomotory disability of the lower limbs. According to the learned counsel for the respondent one seat had been reserved for such a candidate and that has already been allotted to a person whose rank was 444 in order of merit. The petitioner's rank was 988. Since the issue with regard to allotment has already been decided, I do not deem it necessary, as mentioned above, to go into the question as to whether only one seat should have been reserved or three seats should have been reserved for physically handicapped candidates. That question is left open.

With these observations, this writ petition stands dismissed.

BADAR DURREZ AHMED
(JUDGE)

April 21, 2007
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